

State of Colorado



Bill Owens
Governor

DPA

Department of Personnel
& Administration

State Personnel Board

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Meeting Minutes February 17, 2004

The State Personnel Board met in public session on Tuesday, February 17, 2004, at the Colorado Department of Transportation, 4201 East Arkansas Avenue, Second Floor Auditorium, Denver, Colorado 80222.

The meeting was called to order by Chair Joyce Lottner at approximately 9:00 a.m. In addition to Ms. Lottner, Board members Diedra Garcia, Elizabeth Salkind, Linda Siderius, and John Zakhem were present.

Deputy Attorney General Karen Howard, Board Counsel, and Jane Sprague, Acting Director, were also present.

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As the first order of business, Chair Joyce Lottner introduced Rich Djokic, Deputy Securities Commissioner, as the newly appointed Director of the State Personnel Board as of March 1, 2004. On behalf of the Board, Ms. Lottner thanked Jane Sprague and the Board staff for carrying out the mission of the Board in the two-month interim period between directors, John Zakhem for his participation in the interview and selection process, for which the Board staff has also expressed appreciation to Ms. Lottner for their inclusion, and Karen Howard for filling in as Board Counsel in the absence of Richard Forman.

I. REQUESTS FOR RESIDENCY WAIVERS

A. February 1, 2004 Report on Residency Waivers

There was one request for a residency waiver from the Department of Corrections that has not yet been acted upon for Nurses and other Health Care Providers. There was one request for a residency waiver for Nurses and other related classes, which was granted in January for the Department of Human Services.

II. PENDING MATTERS

There were no pending matters before the Board this month.

III. REVIEW OF INITIAL DECISIONS OR OTHER FINAL ORDERS OF THE ADMINISTRATIVE LAW JUDGES OR THE DIRECTOR ON APPEAL TO THE STATE PERSONNEL BOARD

There were no initial decisions or other final orders of the Administrative Law Judge or the Director for review on appeal to the Board this month.

IV. REVIEW OF PRELIMINARY RECOMMENDATIONS OF THE ADMINISTRATIVE LAW JUDGES OR THE DIRECTOR TO GRANT OR DENY PETITIONS FOR HEARING

- A. Victor Meyers v. Department of Corrections, Trinidad Correctional Facility, State Personnel Board case number 2003G138.

Ms. Garcia moved to adopt the Preliminary Recommendation of the Administrative Law Judge and deny the petition for hearing. Ms. Siderius seconded the motion. The motion passed on the affirmative vote of the following Board members: Ms. Garcia, Ms. Salkind, Ms. Siderius, Mr. Zakhem, and Ms. Lottner.

- B. Richard Lewis v. Department of Law, Attorney General's Office, Enforcement Section, State Personnel Board case number 2003G141.

Ms. Garcia moved to adopt the Preliminary Recommendation of the Administrative Law Judge and deny the petition for hearing. Mr. Zakhem seconded the motion. The motion passed on the affirmative vote of the following Board members: Ms. Garcia, Ms. Salkind, Mr. Zakhem, and Ms. Lottner. Ms. Siderius abstained from voting.

- C. Joe Glenn v. Department of Corrections, Buena Vista Correctional Facility, State Personnel Board case number 2004G018.

Ms. Siderius moved to adopt the Preliminary Recommendation of the Administrative Law Judge and deny the petition for hearing. Ms. Garcia seconded the motion. The motion passed on the affirmative vote of the following Board members: Ms. Garcia, Ms. Salkind, Ms. Siderius, Mr. Zakhem, and Ms. Lottner.

V. INITIAL DECISIONS OR OTHER FINAL ORDERS OF THE ADMINISTRATIVE LAW JUDGES OR THE DIRECTOR

- A. Fayette Augillard v. Department Higher Education, Colorado Student Loan Program, State Personnel Board case number 2004B057.

On January 26, 2004, the Initial Decision of the Administrative Law Judge was issued. The ALJ found that Respondent's five-day suspension without pay of Complainant was not arbitrary, capricious or contrary to rule or law, and ordered that Respondent's action is affirmed and Complainant's appeal is dismissed with prejudice.

- B. Fayette Augillard v. Department of Higher Education, Colorado Student Loan Program, State Personnel Board case number 2003B231.

On February 5, 2004, the Initial Decision of the Administrative Law Judge was issued. The ALJ found that Respondent's abolishment of Complainant's position and subsequent layoff of Complainant were not arbitrary, capricious or contrary to rule or law, and ordered that Respondent's action is affirmed and Complainant's appeal is dismissed with prejudice.

VI. REVIEW OF THE MINUTES FROM THE JANUARY 20, 2004 PUBLIC MEETING OF THE STATE PERSONNEL BOARD

Ms. Siderius moved to approve the minutes of the January 20, 2004 meeting as submitted. Ms. Salkind seconded the motion. The motion passed on the affirmative vote of the following Board members: Ms. Salkind, Ms. Siderius, and Ms. Lottner. Ms. Garcia and Mr. Zakhem abstained from voting because they were not present at the meeting.

It was noted by Ms. Lottner that with regard to making the salary of the GP III position retroactive to January 1, 2004, (see Minutes from the January 20, 2004 Public Meeting of the State Personnel Board, page 5), she checked with Human Resources personnel and was told the salary cannot be retroactive to that date but begins on the effective date of the reallocation of the position, which was January 7, 2004.

VII. ACKNOWLEDGMENTS

DECISIONS OF THE STATE PERSONNEL BOARD MADE AT ITS JANUARY 20, 2004 PUBLIC MEETING:

- A. Patricia Brockman v. Department of Corrections, Youthful Offender System, State Personnel Board case number 2004B006.

The Board voted to adopt the Preliminary Recommendation of the Administrative Law Judge and deny the petition for hearing.

- B. Steven Y. Kim v. Department of Regulatory Agencies, Office of Information Technology, State Personnel Board case number 2004G003.

The Board voted to adopt the Preliminary Recommendation of the Administrative Law Judge and deny the petition for hearing.

- C. James Quintana v. Department of Corrections, Buena Vista Correctional Complex, State Personnel Board case number 2004G010

The Board voted to adopt the Preliminary Recommendation of the Administrative Law Judge and deny the petition for hearing.

VIII. REPORT OF THE STATE PERSONNEL DIRECTOR

IX. ADMINISTRATIVE MATTERS & COMMENTS

A. ADMINISTRATIVE MATTERS

- Budget Report and Revenue and Expense Report
- Cases Scheduled for Preliminary Review
- Cases on Appeal to the Board and to Appellate Courts
- Web Site Statistics
- Order Affirmed in Rura v. Department of Higher Education, State Board of Agriculture, Colorado State University, State Personnel Board case number 2001G117, Court of Appeals No. 02CA1957
- Letter to Ken Allikian
- Statement of Basis, Specific Statutory Authority, and Purpose for the State Personnel Director's Adoption of Permanent Administrative Procedures and Proposed Procedures

B. GENERAL COMMENTS FROM ATTORNEYS, EMPLOYEE ORGANIZATIONS, PERSONNEL ADMINISTRATORS, AND THE PUBLIC

X. EXECUTIVE SESSION

A. Case Status Report

Following Executive Session, Mr. Zakhem moved that Rich Djokic is to submit in writing his obligations regarding his time commitment. The submittal shall be done in the form of a request to the Board Chairperson with an analysis that the pending cases in which Mr. Djokic is involved do not oppose a conflict of interest. Ms. Salkind seconded the motion. The motion passed on the affirmative vote of the following Board members: Ms. Garcia, Ms. Salkind, Ms. Siderius, Mr. Zakhem, and Ms. Lottner.

Having no more business, the meeting adjourned by consensus.

APPROVED THIS 16th DAY OF MARCH, 2004.

Joyce Lottner, Chair

John Zakhem, Vice Chair

Diedra Garcia, Member

Elizabeth Salkind, Member

Linda Siderius, Member